

AMENDED IN ASSEMBLY MAY 4, 2016  
AMENDED IN ASSEMBLY MARCH 18, 2016  
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2809**

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**Introduced by Assembly Member Rodriguez**

February 19, 2016

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An act to amend Sections 4646.5, 4648, ~~4648.35, 4648.5, 4648.55, 4659, 4686.2, and 4686.5~~ of *and 4686.2 of, and to add Section 4646.45 to*, the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2809, as amended, Rodriguez. Developmental services: regional centers.

Existing law, the California Early Intervention Services Act, provides a statewide system of coordinated, comprehensive, family-centered, multidisciplinary, and interagency programs that are responsible for providing appropriate early intervention services and support to all eligible infants and toddlers, as defined, and their families and requires an eligible infant or toddler receiving services under the act to have an individualized family service plan (IFSP). The act requires these services to be provided pursuant to the existing regional center system under the Lanterman Developmental Disabilities Service Act.

Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is responsible for providing various services and supports to individuals with developmental disabilities, and for ensuring the appropriateness and quality of those services and supports. Under existing law, the department contracts with regional centers to provide services and

supports to persons with developmental disabilities. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements.

This bill would require regional centers to give certain information and materials to a consumer or his or her parents, legal guardian, conservator, or authorized representative, or both, at the time of development, scheduled review, or modification of a consumer's IPP or IFSP and would require that information and those materials to be ~~in his, her, or their native language. made available in threshold languages, as defined.~~

~~Existing law generally provides, beginning July 1, 2009 that a regional center shall not purchase medical or dental services for a consumer 3 years of age or older unless the regional center is provided with documentation of a Medi-Cal, private insurance, or a health care service plan denial and the regional center determines that an appeal of the denial by the consumer or family does not have merit. Existing law authorizes regional centers to pay for medical or dental services during certain periods, including, among others, while coverage is being pursued, but before a denial is made.~~

~~This bill would instead require regional centers to pay for medical or dental services during those periods.~~

Existing law also requires a regional center to only purchase applied behavioral analysis (ABA) services or intensive behavioral intervention services when the parent or parents of minor consumers receiving services participate in the intervention plan for the consumers.

This bill would require the regional center, when determining the extent of parent participation to consider any relevant hardships suffered by a parent or parents that may constitute a barrier to the consumer accessing those services. The bill would require the hardships to be documented in the IPP or IFSP and reviewed annually to determine if there has been a change in circumstances.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 4646.45 is added to the Welfare and
- 2     Institutions Code, immediately following Section 4646.4, to read:

1 4646.45. At the time of development, scheduled review, or  
2 modification of a consumer's individual program plan or  
3 individualized family service plan, the regional center shall make  
4 available, in a nontechnical, understandable form and in threshold  
5 languages, as defined in paragraph (3) of subdivision (a) of Section  
6 1810.410 of Title 9 of the California Code of Regulations, as  
7 appropriate, to the consumer or his or her parents, legal guardian,  
8 conservator, or authorized representative, or both, a document  
9 describing all of the following and the process for obtaining each  
10 exception or exemption:

11 (a) The exception described in subdivision (d) of Section  
12 4648.35.

13 (b) The exemption described in subdivision (c) of Section 4648.5.

14 (c) The exemption described in subdivision (d) of Section  
15 4648.55.

16 (d) The exemption described in subparagraph (A) of paragraph  
17 (3) of subdivision (a) of Section 4686.5.

18 **SECTION 1.**

19 **SEC. 2.** Section 4646.5 of the Welfare and Institutions Code  
20 is amended to read:

21 4646.5. (a) The planning process for the individual program  
22 plan described in Section 4646 shall include all of the following:

23 (1) Gathering information and conducting assessments to  
24 determine the life goals, capabilities and strengths, preferences,  
25 barriers, and concerns or problems of the person with  
26 developmental disabilities. For children with developmental  
27 disabilities, this process should include a review of the strengths,  
28 preferences, and needs of the child and the family unit as a whole.  
29 Assessments shall be conducted by qualified individuals and  
30 performed in natural environments whenever possible. Information  
31 shall be taken from the consumer, his or her parents and other  
32 family members, his or her friends, advocates, authorized  
33 representative, if applicable, providers of services and supports,  
34 and other agencies. The assessment process shall reflect awareness  
35 of, and sensitivity to, the lifestyle and cultural background of the  
36 consumer and the family.

37 (2) A statement of goals, based on the needs, preferences, and  
38 life choices of the individual with developmental disabilities, and  
39 a statement of specific, time-limited objectives for implementing  
40 the person's goals and addressing his or her needs. These objectives

1 shall be stated in terms that allow measurement of progress or  
2 monitoring of service delivery. These goals and objectives should  
3 maximize opportunities for the consumer to develop relationships,  
4 be part of community life in the areas of community participation,  
5 housing, work, school, and leisure, increase control over his or her  
6 life, acquire increasingly positive roles in community life, and  
7 develop competencies to help accomplish these goals.

8 (3) When developing individual program plans for children,  
9 regional centers shall be guided by the principles, process, and  
10 services and support parameters set forth in Section 4685.

11 (4) When developing an individual program plan for a transition  
12 age youth or working age adult, the planning team shall consider  
13 the Employment First Policy described in Chapter 14 (commencing  
14 with Section 4868).

15 (5) A schedule of the type and amount of services and supports  
16 to be purchased by the regional center or obtained from generic  
17 agencies or other resources in order to achieve the individual  
18 program plan goals and objectives, and identification of the  
19 provider or providers of service responsible for attaining each  
20 objective, including, but not limited to, vendors, contracted  
21 providers, generic service agencies, and natural supports. The  
22 individual program plan shall specify the approximate scheduled  
23 start date for services and supports and shall contain timelines for  
24 actions necessary to begin services and supports, including generic  
25 services. In addition to the requirements of subdivision (h) of  
26 Section 4646, each regional center shall offer, and upon request  
27 provide, a written copy of the individual program plan to the  
28 consumer, and, when appropriate, his or her parents, legal guardian  
29 or conservator, or authorized representative within 45 days of their  
30 request in a threshold language, as defined by paragraph (3) of  
31 subdivision (a) of Section 1810.410 of Title 9 of the California  
32 Code of Regulations.

33 (6) At the beginning of each individual program plan meeting,  
34 the regional center shall provide a consumer and, when appropriate,  
35 his or her parents, legal guardian, conservator, or authorized  
36 representative ~~a list of services provided by the regional center~~  
37 ~~and information about the appeal and complaint process in his or~~  
38 ~~her native language. threshold languages, as defined in paragraph~~  
39 ~~(3) of subdivision (a) of Section 1810.410 of Title 9 of the~~  
40 *California Code of Regulations, as appropriate.*

1     ~~(7) At the end of the individual program plan meeting, the~~  
2 ~~regional center shall provide a consumer and, when appropriate,~~  
3 ~~his or her parents, legal guardian, conservator, or authorized~~  
4 ~~representative a written list of agreed-upon services and supports,~~  
5 ~~including the amount and anticipated start date, and a list of any~~  
6 ~~services and supports for which final agreement has not yet been~~  
7 ~~reached and for which there will be a subsequent program plan~~  
8 ~~meeting pursuant to subdivision (f) of Section 4646.~~

9     ~~(8)~~

10     (7) When agreed to by the consumer, the parents, legally  
11 appointed guardian, or authorized representative of a minor  
12 consumer, or the legally appointed conservator of an adult  
13 consumer or the authorized representative, including those  
14 appointed pursuant to subdivision (a) of Section 4541, subdivision  
15 (b) of Section 4701.6, and subdivision (e) of Section 4705, a review  
16 of the general health status of the adult or child, including medical,  
17 dental, and mental health needs, shall be conducted. This review  
18 shall include a discussion of current medications, any observed  
19 side effects, and the date of the last review of the medication.  
20 Service providers shall cooperate with the planning team to provide  
21 any information necessary to complete the health status review. If  
22 any concerns are noted during the review, referrals shall be made  
23 to regional center clinicians or to the consumer's physician, as  
24 appropriate. Documentation of health status and referrals shall be  
25 made in the consumer's record by the service coordinator.

26     ~~(9)~~

27     (8) (A) The development of a transportation access plan for a  
28 consumer when all of the following conditions are met:

29     (i) The regional center is purchasing private, specialized  
30 transportation services or services from a residential, day, or other  
31 provider, excluding vouchered service providers, to transport the  
32 consumer to and from day or work services.

33     (ii) The planning team has determined that a consumer's  
34 community integration and participation could be safe and  
35 enhanced through the use of public transportation services.

36     (iii) The planning team has determined that generic  
37 transportation services are available and accessible.

38     (B) To maximize independence and community integration and  
39 participation, the transportation access plan shall identify the  
40 services and supports necessary to assist the consumer in accessing

1 public transportation and shall comply with Section 4648.35. These  
2 services and supports may include, but are not limited to, mobility  
3 training services and the use of transportation aides. Regional  
4 centers are encouraged to coordinate with local public  
5 transportation agencies.

6 ~~(10)~~

7 (9) A schedule of regular periodic review and reevaluation to  
8 ascertain that planned services have been provided, that objectives  
9 have been fulfilled within the times specified, and that consumers  
10 and families are satisfied with the individual program plan and its  
11 implementation.

12 (b) For all active cases, individual program plans shall be  
13 reviewed and modified by the planning team, through the process  
14 described in Section 4646, as necessary, in response to the person's  
15 achievement or changing needs, and no less often than once every  
16 three years. If the consumer or, where appropriate, the consumer's  
17 parents, legal guardian, authorized representative, or conservator  
18 requests an individual program plan review, the individual program  
19 shall be reviewed within 30 days after the request is submitted.

20 (c) (1) The department, with the participation of representatives  
21 of a statewide consumer organization, the Association of Regional  
22 Center Agencies, an organized labor organization representing  
23 service coordination staff, and the state council shall prepare  
24 training material and a standard format and instructions for the  
25 preparation of individual program plans, which embody an  
26 approach centered on the person and family.

27 (2) Each regional center shall use the training materials and  
28 format prepared by the department pursuant to paragraph (1).

29 (3) The department shall biennially review a random sample of  
30 individual program plans at each regional center to ensure that  
31 these plans are being developed and modified in compliance with  
32 Section 4646 and this section.

33 ~~SEC. 2.~~

34 SEC. 3. Section 4648 of the Welfare and Institutions Code is  
35 amended to read:

36 4648. In order to achieve the stated objectives of a consumer's  
37 individual program plan, the regional center shall conduct activities,  
38 including, but not limited to, all of the following:

39 (a) Securing needed services and supports.

1 (1) It is the intent of the Legislature that services and supports  
2 assist individuals with developmental disabilities in achieving the  
3 greatest self-sufficiency possible and in exercising personal  
4 choices. The regional center shall secure services and supports  
5 that meet the needs of the consumer, as determined in the  
6 consumer's individual program plan, and within the context of the  
7 individual program plan, the planning team shall give highest  
8 preference to those services and supports which would allow  
9 minors with developmental disabilities to live with their families,  
10 adult persons with developmental disabilities to live as  
11 independently as possible in the community, and that allow all  
12 consumers to interact with persons without disabilities in positive,  
13 meaningful ways.

14 (2) In implementing individual program plans, regional centers,  
15 through the planning team, shall first consider services and supports  
16 in natural community, home, work, and recreational settings.  
17 Services and supports shall be flexible and individually tailored  
18 to the consumer and, where appropriate, his or her family.

19 (3) A regional center may, pursuant to vendorization or a  
20 contract, purchase services or supports for a consumer from any  
21 individual or agency that the regional center and consumer or,  
22 when appropriate, his or her parents, legal guardian, or conservator,  
23 or authorized representatives, determines will best accomplish all  
24 or any part of that consumer's program plan.

25 (A) Vendorization or contracting is the process for identification,  
26 selection, and utilization of service vendors or contractors, based  
27 on the qualifications and other requirements necessary in order to  
28 provide the service.

29 (B) A regional center may reimburse an individual or agency  
30 for services or supports provided to a regional center consumer if  
31 the individual or agency has a rate of payment for vendored or  
32 contracted services established by the department, pursuant to this  
33 division, and is providing services pursuant to an emergency  
34 vendorization or has completed the vendorization procedures or  
35 has entered into a contract with the regional center and continues  
36 to comply with the vendorization or contracting requirements. The  
37 director shall adopt regulations governing the vendorization process  
38 to be utilized by the department, regional centers, vendors, and  
39 the individual or agency requesting vendorization.

1 (C) Regulations shall include, but not be limited to: the vendor  
2 application process, and the basis for accepting or denying an  
3 application; the qualification and requirements for each category  
4 of services that may be provided to a regional center consumer  
5 through a vendor; requirements for emergency vendorization;  
6 procedures for termination of vendorization; *and* the procedure  
7 for an individual or an agency to appeal any vendorization decision  
8 made by the department or regional center.

9 (D) A regional center may vendorize a licensed facility for  
10 exclusive services to persons with developmental disabilities at a  
11 capacity equal to or less than the facility's licensed capacity. A  
12 facility already licensed on January 1, 1999, shall continue to be  
13 vendorized at their full licensed capacity until the facility agrees  
14 to vendorization at a reduced capacity.

15 (E) Effective July 1, 2009, notwithstanding any other law or  
16 regulation, a regional center shall not newly vendor a State  
17 Department of Social Services licensed 24-hour residential care  
18 facility with a licensed capacity of 16 or more beds, unless the  
19 facility qualifies for receipt of federal funds under the Medicaid  
20 Program.

21 (4) Notwithstanding subparagraph (B) of paragraph (3), a  
22 regional center may contract or issue a voucher for services and  
23 supports provided to a consumer or family at a cost not to exceed  
24 the maximum rate of payment for that service or support  
25 established by the department. If a rate has not been established  
26 by the department, the regional center may, for an interim period,  
27 contract for a specified service or support with, and establish a  
28 rate of payment for, any provider of the service or support  
29 necessary to implement a consumer's individual program plan.  
30 Contracts may be negotiated for a period of up to three years, with  
31 annual review and subject to the availability of funds.

32 (5) In order to ensure the maximum flexibility and availability  
33 of appropriate services and supports for persons with  
34 developmental disabilities, the department shall establish and  
35 maintain an equitable system of payment to providers of services  
36 and supports identified as necessary to the implementation of a  
37 ~~consumers'~~ *consumer's* individual program plan. The system of  
38 payment shall include a provision for a rate to ensure that the  
39 provider can meet the special needs of consumers and provide



1 quality services and supports in the least restrictive setting as  
2 required by law.

3 (6) The regional center and the consumer, or when appropriate,  
4 his or her parents, legal guardian, conservator, or authorized  
5 representative, including those appointed pursuant to subdivision  
6 (a) of Section 4541, subdivision (b) of Section 4701.6, or  
7 subdivision (e) of Section 4705, shall, pursuant to the individual  
8 program plan, consider all of the following when selecting a  
9 provider of consumer services and supports:

10 (A) A provider's ability to deliver quality services or supports  
11 that can accomplish all or part of the consumer's individual  
12 program plan.

13 (B) A provider's success in achieving the objectives set forth  
14 in the individual program plan.

15 (C) Where appropriate, the existence of licensing, accreditation,  
16 or professional certification.

17 (D) The cost of providing services or supports of comparable  
18 quality by different providers, if available, shall be reviewed, and  
19 the least costly available provider of comparable service, including  
20 the cost of transportation, who is able to accomplish all or part of  
21 the consumer's individual program plan, consistent with the  
22 particular needs of the consumer and family as identified in the  
23 individual program plan, shall be selected. In determining the least  
24 costly provider, the availability of federal financial participation  
25 shall be considered. The consumer shall not be required to use the  
26 least costly provider if it will result in the consumer moving from  
27 an existing provider of services or supports to more restrictive or  
28 less integrated services or supports.

29 (E) The consumer's choice of providers, or, when appropriate,  
30 the consumer's parent's, legal guardian's, authorized  
31 representative's, or conservator's choice of providers.

32 (7) No service or support provided by any agency or individual  
33 shall be continued unless the consumer or, when appropriate, his  
34 or her parents, legal guardian, or conservator, or authorized  
35 representative, including those appointed pursuant to subdivision  
36 (a) of Section 4541, subdivision (b) of Section 4701.6, or  
37 subdivision (e) of Section 4705, is satisfied and the regional center  
38 and the consumer or, when appropriate, the person's parents or  
39 legal guardian or conservator agree that planned services and

1 supports have been provided, and reasonable progress toward  
2 objectives have been made.

3 (8) Regional center funds shall not be used to supplant the  
4 budget of any agency that has a legal responsibility to serve all  
5 members of the general public and is receiving public funds for  
6 providing those services.

7 (9) (A) A regional center may, directly or through an agency  
8 acting on behalf of the center, provide placement in, purchase of,  
9 or follow-along services to persons with developmental disabilities  
10 in, appropriate community living arrangements, including, but not  
11 limited to, support service for consumers in homes they own or  
12 lease, foster family placements, health care facilities, and licensed  
13 community care facilities. In considering appropriate placement  
14 alternatives for children with developmental disabilities, approval  
15 by the child's parent or guardian shall be obtained before placement  
16 is made.

17 (B) Effective July 1, 2012, notwithstanding any other law or  
18 regulation, a regional center shall not purchase residential services  
19 from a State Department of Social Services licensed 24-hour  
20 residential care facility with a licensed capacity of 16 or more  
21 beds. This prohibition on regional center purchase of residential  
22 services shall not apply to any of the following:

23 (i) A residential facility with a licensed capacity of 16 or more  
24 beds that has been approved to participate in the department's  
25 Home and Community Based Services Waiver or another existing  
26 waiver program or certified to participate in the Medi-Cal program.

27 (ii) A residential facility service provider that has a written  
28 agreement and specific plan prior to July 1, 2012, with the  
29 vendoring regional center to downsize the existing facility by  
30 transitioning its residential services to living arrangements of 15  
31 beds or less or restructure the large facility to meet federal  
32 Medicaid eligibility requirements on or before June 30, 2013.

33 (iii) A residential facility licensed as a mental health  
34 rehabilitation center by the State Department of Mental Health or  
35 successor agency under any of the following circumstances:

36 (I) The facility is eligible for Medicaid reimbursement.

37 (II) The facility has a department-approved plan in place by  
38 June 30, 2013, to transition to a program structure eligible for  
39 federal Medicaid funding, and this transition will be completed by  
40 June 30, 2014. The department may grant an extension for the date

1 by which the transition will be completed if the facility  
2 demonstrates that it has made significant progress toward transition,  
3 and states with specificity the timeframe by which the transition  
4 will be completed and the specified steps that will be taken to  
5 accomplish the transition. A regional center may pay for the costs  
6 of care and treatment of a consumer residing in the facility on June  
7 30, 2012, until June 30, 2013, inclusive, and, if the facility has a  
8 department-approved plan in place by June 30, 2013, may continue  
9 to pay the costs under this subparagraph until June 30, 2014, or  
10 until the end of any period during which the department has granted  
11 an extension.

12 (III) There is an emergency circumstance in which the regional  
13 center determines that it cannot locate alternate federally eligible  
14 services to meet the consumer's needs. Under such an emergency  
15 circumstance, an assessment shall be completed by the regional  
16 center as soon as possible and within 30 days of admission. An  
17 individual program plan meeting shall be convened immediately  
18 following the assessment to determine the services and supports  
19 needed for stabilization and to develop a plan to transition the  
20 consumer from the facility into the community. If transition is not  
21 expected within 90 days of admission, an individual program plan  
22 meeting shall be held to discuss the status of transition and to  
23 determine if the consumer is still in need of placement in the  
24 facility. Commencing October 1, 2012, this determination shall  
25 be made after also considering resource options identified by the  
26 statewide specialized resource service. If it is determined that  
27 emergency services continue to be necessary, the regional center  
28 shall submit an updated transition plan that can cover a period of  
29 up to 90 days. In no event shall placements under these emergency  
30 circumstances exceed 180 days.

31 (C) (i) Effective July 1, 2012, notwithstanding any other law  
32 or regulation, a regional center shall not purchase new residential  
33 services from, or place a consumer in, institutions for mental  
34 disease, as described in Part 5 (commencing with Section 5900)  
35 of Division 5, for which federal Medicaid funding is not available.  
36 Effective July 1, 2013, this prohibition applies regardless of the  
37 availability of federal funding.

38 (ii) The prohibition described in clause (i) shall not apply to  
39 emergencies, as determined by the regional center, when a regional  
40 center cannot locate alternate services to meet the consumer's

1 needs. As soon as possible within 30 days of admission due to an  
2 emergency, an assessment shall be completed by the regional  
3 center. An individual program plan meeting shall be convened  
4 immediately following the assessment, to determine the services  
5 and supports needed for stabilization and to develop a plan to  
6 transition the consumer from the facility to the community. If  
7 transition is not expected within 90 days of admission, an  
8 emergency program plan meeting shall be held to discuss the status  
9 of the transition and to determine if the consumer is still in need  
10 of placement in the facility. If emergency services continue to be  
11 necessary, the regional center shall submit an updated transition  
12 plan to the department for an extension of up to 90 days. Placement  
13 shall not exceed 180 days.

14 (iii) To the extent feasible, prior to any admission, the regional  
15 center shall consider resource options identified by the statewide  
16 specialized resource service established pursuant to subdivision  
17 (b) of Section 4418.25.

18 (iv) The clients' rights advocate shall be notified of each  
19 admission and individual program ~~planning~~ *plan* meeting pursuant  
20 to this subparagraph and may participate in all individual program  
21 ~~planning~~ *plan* meetings unless the consumer objects on his or her  
22 own behalf. For purposes of this clause, notification to the clients'  
23 rights advocate shall include a copy of the most recent  
24 comprehensive assessment or updated assessment and the time,  
25 date, and location of the meeting, and shall be provided as soon  
26 as practicable, but not less than seven calendar days prior to the  
27 meeting.

28 (v) If a consumer is placed in an institution for mental disease  
29 by another entity, the institution for mental disease shall inform  
30 the regional center of the placement within five days of the date  
31 the consumer is admitted. If an individual's records indicate that  
32 he or she is a regional center consumer, the institution for mental  
33 disease shall make every effort to contact the local regional center  
34 or department to determine which regional center to provide notice.  
35 As soon as possible within 30 days of admission to an institution  
36 for mental disease due to an emergency pursuant to clause (ii), or  
37 within 30 days of notification of admission to an institution for  
38 mental disease by an entity other than a regional center, an  
39 assessment shall be completed by the regional center.

1 (vi) Regional centers shall complete a comprehensive assessment  
2 of any consumer residing in an institution for mental disease as of  
3 July 1, 2012, for which federal Medicaid funding is not available,  
4 and for any consumer residing in an institution for mental disease  
5 as of July 1, 2013, without regard to federal funding. The  
6 comprehensive assessment shall be completed prior to the  
7 consumer's next scheduled individual program plan meeting and  
8 shall include identification of the services and supports needed  
9 and the timeline for identifying or developing those services needed  
10 to transition the consumer back to the community. Effective  
11 October 1, 2012, the regional center shall also consider resource  
12 options identified by the statewide specialized resource service.  
13 For each individual program plan meeting convened pursuant to  
14 this subparagraph, the clients' rights advocate for the regional  
15 center shall be notified of the meeting and may participate in the  
16 meeting unless the consumer objects on his or her own behalf. For  
17 purposes of this clause, notification to the clients' rights advocate  
18 shall include the time, date, and location of the meeting, and shall  
19 be provided as soon as practicable, but not less than seven calendar  
20 days prior to the meeting.

21 (D) A person with developmental disabilities placed by the  
22 regional center in a community living arrangement shall have the  
23 rights specified in this division. These rights shall be brought to  
24 the person's attention by any means necessary to reasonably  
25 communicate these rights to each resident, provided that, at a  
26 minimum, the Director of Developmental Services prepare,  
27 provide, and require to be clearly posted in all residential facilities  
28 and day programs a poster using simplified language and pictures  
29 that is designed to be more understandable by persons with  
30 intellectual disabilities and that the rights information shall also  
31 be available through the regional center to each residential facility  
32 and day program in alternative formats, including, but not limited  
33 to, other languages, braille, and audiotapes, when necessary to  
34 meet the communication needs of consumers.

35 (E) Consumers are eligible to receive supplemental services  
36 including, but not limited to, additional staffing, pursuant to the  
37 process described in subdivision (d) of Section 4646. Necessary  
38 additional staffing that is not specifically included in the rates paid  
39 to the service provider may be purchased by the regional center if  
40 the additional staff are in excess of the amount required by

1 regulation and the individual's planning team determines the  
2 additional services are consistent with the provisions of the  
3 individual program plan. Additional staff should be periodically  
4 reviewed by the planning team for consistency with the individual  
5 program plan objectives in order to determine if continued use of  
6 the additional staff is necessary and appropriate and if the service  
7 is producing outcomes consistent with the individual program plan.  
8 Regional centers shall monitor programs to ensure that the  
9 additional staff is being provided and utilized appropriately.

10 (10) Emergency and crisis intervention services including, but  
11 not limited to, mental health services and behavior modification  
12 services, may be provided, as needed, to maintain persons with  
13 developmental disabilities in the living arrangement of their own  
14 choice. Crisis services shall first be provided without disrupting a  
15 person's living arrangement. If crisis intervention services are  
16 unsuccessful, emergency housing shall be available in the person's  
17 home community. If dislocation cannot be avoided, every effort  
18 shall be made to return the person to his or her living arrangement  
19 of choice, with all necessary supports, as soon as possible.

20 (11) Among other service and support options, planning teams  
21 shall consider the use of paid roommates or neighbors, personal  
22 assistance, technical and financial assistance, and all other service  
23 and support options which would result in greater self-sufficiency  
24 for the consumer and cost-effectiveness to the state.

25 (12) When facilitation as specified in an individual program  
26 plan requires the services of an individual, the facilitator shall be  
27 of the consumer's choosing.

28 (13) The community support may be provided to assist  
29 individuals with developmental disabilities to fully participate in  
30 community and civic life, including, but not limited to, programs,  
31 services, work opportunities, business, and activities available to  
32 persons without disabilities. This facilitation shall include, but not  
33 be limited to, any of the following:

34 (A) Outreach and education to programs and services within  
35 the community.

36 (B) Direct support to individuals that would enable them to  
37 more fully participate in their community.

38 (C) Developing unpaid natural supports when possible.

39 (14) When feasible and recommended by the individual program  
40 planning team, for purposes of facilitating better and cost-effective

1 services for consumers or family members, technology, including  
2 telecommunication technology, may be used in conjunction with  
3 other services and supports. Technology in lieu of a consumer's  
4 in-person appearances at judicial proceedings or administrative  
5 due process hearings may be used only if the consumer or, when  
6 appropriate, the consumer's parent, legal guardian, conservator,  
7 or authorized representative, gives informed consent. Technology  
8 may be used in lieu of, or in conjunction with, in-person training  
9 for providers, as appropriate.

10 (15) Other services and supports may be provided as set forth  
11 in Sections 4685, 4686, 4687, 4688, and 4689, when necessary.

12 (16) Notwithstanding any other law or regulation, effective July  
13 1, 2009, regional centers shall not purchase experimental  
14 treatments, therapeutic services, or devices that have not been  
15 clinically determined or scientifically proven to be effective or  
16 safe or for which risks and complications are unknown.  
17 Experimental treatments or therapeutic services include  
18 experimental medical or nutritional therapy when the use of the  
19 product for that purpose is not a general physician practice. For  
20 regional center consumers receiving these services as part of their  
21 individual program plan (IPP) or individualized family service  
22 plan (IFSP) on July 1, 2009, this prohibition shall apply on August  
23 1, 2009.

24 (b) (1) Advocacy for, and protection of, the civil, legal, and  
25 service rights of persons with developmental disabilities as  
26 established in this division.

27 (2) Whenever the advocacy efforts of a regional center to secure  
28 or protect the civil, legal, or service rights of any of its consumers  
29 prove ineffective, the regional center or the person with  
30 developmental disabilities or his or her parents, legal guardian, or  
31 other representative may request advocacy assistance from the  
32 state council.

33 (c) The regional center may assist consumers and families  
34 directly, or through a provider, in identifying and building circles  
35 of support within the community.

36 (d) In order to increase the quality of community services and  
37 protect consumers, the regional center shall, when appropriate,  
38 take either of the following actions:

39 (1) Identify services and supports that are ineffective or of poor  
40 quality and provide or secure consultation, training, or technical

1 assistance services for any agency or individual provider to assist  
2 that agency or individual provider in upgrading the quality of  
3 services or supports.

4 (2) Identify providers of services or supports that may not be  
5 in compliance with local, state, and federal statutes and regulations  
6 and notify the appropriate licensing or regulatory authority to  
7 investigate the possible noncompliance.

8 (e) When necessary to expand the availability of needed services  
9 of good quality, a regional center may take actions that include,  
10 but are not limited to, the following:

11 (1) Soliciting an individual or agency by requests for proposals  
12 or other means, to provide needed services or supports not presently  
13 available.

14 (2) Requesting funds from the Program Development Fund,  
15 pursuant to Section 4677, or community placement plan funds  
16 designated from that fund, to reimburse the startup costs needed  
17 to initiate a new program of services and supports.

18 (3) Using creative and innovative service delivery models,  
19 including, but not limited to, natural supports.

20 (f) Except in emergency situations, a regional center shall not  
21 provide direct treatment and therapeutic services, but shall utilize  
22 appropriate public and private community agencies and service  
23 providers to obtain those services for its consumers.

24 (g) When there are identified gaps in the system of services and  
25 supports or when there are identified consumers for whom no  
26 provider will provide services and supports contained in his or her  
27 individual program plan, the department may provide the services  
28 and supports directly.

29 (h) At least annually, ~~and at the time of development, scheduled~~  
30 ~~review, or modification of a consumer's individual program plan~~  
31 ~~or individualized family service plan,~~ regional centers shall provide  
32 the consumer, his or her parents, legal guardian, conservator, or  
33 authorized representative a statement of services and supports the  
34 regional center purchased for the purpose of ensuring that they are  
35 delivered. The statement shall include the type, unit, month, and  
36 cost of services and supports purchased. The regional center shall  
37 ~~provide that statement in the native language of the~~ *make that*  
38 *statement available in threshold languages, as defined in*  
39 *paragraph (3) of subdivision (a) of Section 1810.410 of Title 9 of*  
40 *the California Code of Regulations, as appropriate, to the*



1 consumer or his or her parents, legal guardian, conservator, or  
2 authorized representative, or both.

3 ~~SEC. 3. Section 4648.35 of the Welfare and Institutions Code~~  
4 ~~is amended to read:~~

5 ~~4648.35. At the time of development, review, or modification~~  
6 ~~of a consumer's individual program plan (IPP) or individualized~~  
7 ~~family service plan (IFSP), all of the following shall apply to a~~  
8 ~~regional center:~~

9 ~~(a) A regional center shall not fund private specialized~~  
10 ~~transportation services for an adult consumer who can safely access~~  
11 ~~and utilize public transportation, when that transportation is~~  
12 ~~available.~~

13 ~~(b) A regional center shall fund the least expensive~~  
14 ~~transportation modality that meets the consumer's needs, as set~~  
15 ~~forth in the consumer's IPP or IFSP.~~

16 ~~(c) A regional center shall fund transportation, when required,~~  
17 ~~from the consumer's residence to the lowest-cost vendor that~~  
18 ~~provides the service that meets the consumer's needs, as set forth~~  
19 ~~in the consumer's IPP or IFSP. For purposes of this subdivision,~~  
20 ~~the cost of a vendor shall be determined by combining the vendor's~~  
21 ~~program costs and the costs to transport a consumer from the~~  
22 ~~consumer's residence to the vendor.~~

23 ~~(d) A regional center shall fund transportation services for a~~  
24 ~~minor child living in the family residence, only if the family of~~  
25 ~~the child provides sufficient written documentation to the regional~~  
26 ~~center to demonstrate that it is unable to provide transportation for~~  
27 ~~the child. At the time of development, scheduled review, or~~  
28 ~~modification of a consumer's individual program plan or~~  
29 ~~individualized family service plan, the regional center shall provide,~~  
30 ~~in a non-technical, understandable form and in the native language~~  
31 ~~of the consumer or his or her parents, legal guardian, conservator,~~  
32 ~~or authorized representative, or both, a written statement of the~~  
33 ~~requirement described in this subdivision and examples of~~  
34 ~~sufficient written documentation that may be submitted. The~~  
35 ~~regional center shall accept documentation submitted pursuant to~~  
36 ~~this subdivision in any written form, including in the native~~  
37 ~~language of the consumer or his or her parents, legal guardian,~~  
38 ~~conservator, or authorized representative.~~

39 ~~SEC. 4. Section 4648.5 of the Welfare and Institutions Code~~  
40 ~~is amended to read:~~

~~4648.5.—(a) Notwithstanding any other law or regulations to the contrary, effective July 1, 2009, a regional centers' authority to purchase the following services shall be suspended pending implementation of the Individual Choice Budget and certification by the Director of Developmental Services that the Individual Choice Budget has been implemented and will result in state budget savings sufficient to offset the costs of providing the following services:~~

~~(1) Camping services and associated travel expenses.~~

~~(2) Social recreation activities, except for those activities vendored as community-based day programs.~~

~~(3) Educational services for children three to 17, inclusive, years of age.~~

~~(4) Nonmedical therapies, including, but not limited to, specialized recreation, art, dance, and music.~~

~~(b) For regional center consumers receiving services described in subdivision (a) as part of their individual program plan (IPP) or individualized family service plan (IFSP), the prohibition in subdivision (a) shall take effect on August 1, 2009.~~

~~(c) An exemption may be granted on an individual basis in extraordinary circumstances to permit purchase of a service identified in subdivision (a) when the regional center determines that the service is a primary or critical means for ameliorating the physical, cognitive, or psychosocial effects of the consumer's developmental disability, or the service is necessary to enable the consumer to remain in his or her home and no alternative service is available to meet the consumer's needs.~~

~~(d) At the time of development, scheduled review, or modification of a consumer's individual program plan or individualized family service plan, the regional center shall provide, in a non-technical, understandable form and in the native language of the consumer or his or her parents, legal guardian, conservator, or authorized representative, or both, a written statement describing the exemption in subdivision (c) and examples of documentation that may be submitted to demonstrate qualification for the exemption.~~

~~SEC. 5.—Section 4648.55 of the Welfare and Institutions Code is amended to read:~~

~~4648.55.—(a) A regional center shall not purchase day program, vocational education, work services, independent living program,~~

1 ~~or mobility training and related transportation services for a~~  
2 ~~consumer who is 18 to 22 years of age, inclusive, if that consumer~~  
3 ~~is eligible for special education and related education services and~~  
4 ~~has not received a diploma or certificate of completion, unless the~~  
5 ~~individual program plan (IPP) planning team determines that the~~  
6 ~~consumer's needs cannot be met in the educational system or grants~~  
7 ~~an exemption pursuant to subdivision (d). If the planning team~~  
8 ~~determines that generic services can meet the consumer's day,~~  
9 ~~vocational education, work services, independent living, or mobility~~  
10 ~~training and related transportation needs, the regional center shall~~  
11 ~~assist the consumer in accessing those services. To ensure that~~  
12 ~~consumers receive appropriate educational services and an effective~~  
13 ~~transition from services provided by educational agencies to~~  
14 ~~services provided by regional centers, the regional center service~~  
15 ~~coordinator, at the request of the consumer or, where appropriate,~~  
16 ~~the consumer's parent, legal guardian, or conservator, may attend~~  
17 ~~the individualized education program (IEP) planning team meeting.~~

18 ~~(b) For consumers who are 18 to 22 years of age, inclusive, who~~  
19 ~~have left the public school system, and who are receiving regional~~  
20 ~~center purchased services identified in subdivision (a) on or before~~  
21 ~~the effective date of this section, a determination shall be made~~  
22 ~~through the IPP as to whether the return to the educational system~~  
23 ~~can be achieved while meeting the consumer's needs. If the~~  
24 ~~planning team determines that the consumer's needs cannot be~~  
25 ~~met in the educational system, the regional center may continue~~  
26 ~~to purchase the services identified in subdivision (a). If the planning~~  
27 ~~team determines that generic services can meet the consumer's~~  
28 ~~day, vocational education, work services, independent living, or~~  
29 ~~mobility training and related transportation needs, the regional~~  
30 ~~center shall assist the consumer in accessing those services.~~

31 ~~(c) For consumers who are 18 to 22 years of age, inclusive, who~~  
32 ~~have left school prior to enactment of this section, but who are not~~  
33 ~~receiving any of the regional center purchased services identified~~  
34 ~~in subdivision (a), the regional center shall use generic education~~  
35 ~~services to meet the consumer's day, vocational education, work~~  
36 ~~services, independent living, or mobility training and related~~  
37 ~~transportation needs if those needs are subsequently identified in~~  
38 ~~the IPP unless the consumer is eligible for an exemption as set~~  
39 ~~forth in subdivision (d). If the planning team determines that~~  
40 ~~generic services can meet the consumer's day, vocational~~

1 education, work services, independent living, or mobility training  
2 and related transportation needs, the regional center shall assist  
3 the consumer in accessing those services.

4 (d) (1) An exemption to the provisions of this section may be  
5 granted on an individual basis in extraordinary circumstances to  
6 permit purchase of a service identified in subdivision (a). An  
7 exemption shall be granted through the IPP process and shall be  
8 based on a determination that the generic service is not appropriate  
9 to meet the consumer's need.

10 (2) At the time of development, scheduled review, or  
11 modification of a consumer's individual program plan, the regional  
12 center shall provide, in a non-technical, understandable form and  
13 in the native language of the consumer or his or her parents, legal  
14 guardian, conservator, or authorized representative, or both, a  
15 written statement describing the exemption in paragraph (1) and  
16 examples of documentation that may be submitted to demonstrate  
17 qualification for the exemption.

18 (3) The IPP planning team shall consider the standard set forth  
19 in Section 4688.05 when determining whether the consumer  
20 qualifies for an exemption under this subdivision for the purpose  
21 of meeting his or her independent living needs.

22 (e) A school district may contract with regional center vendors  
23 to meet the needs of consumers pursuant to this section.

24 SEC. 6. Section 4659 of the Welfare and Institutions Code is  
25 amended to read:

26 4659. (a) Except as otherwise provided in subdivision (b) or  
27 (e), the regional center shall identify and pursue all possible sources  
28 of funding for consumers receiving regional center services. These  
29 sources shall include, but not be limited to, both of the following:

30 (1) Governmental or other entities or programs required to  
31 provide or pay the cost of providing services, including Medi-Cal,  
32 Medicare, the Civilian Health and Medical Program for Uniform  
33 Services, school districts, and federal supplemental security income  
34 and the state supplementary program.

35 (2) Private entities, to the maximum extent they are liable for  
36 the cost of services, aid, insurance, or medical assistance to the  
37 consumer.

38 (b) Any revenues collected by a regional center pursuant to this  
39 section shall be applied against the cost of services prior to use of  
40 regional center funds for those services. This revenue shall not

1 result in a reduction in the regional center's purchase of services  
2 budget, except as it relates to federal supplemental security income  
3 and the state supplementary program.

4 (e) Effective July 1, 2009, notwithstanding any other law or  
5 regulation, regional centers shall not purchase any service that  
6 would otherwise be available from Medi-Cal, Medicare, the  
7 Civilian Health and Medical Program for Uniform Services,  
8 In-Home Support Services, California Children's Services, private  
9 insurance, or a health care service plan when a consumer or a  
10 family meets the criteria of this coverage but chooses not to pursue  
11 that coverage. If, on July 1, 2009, a regional center is purchasing  
12 that service as part of a consumer's individual program plan (IPP),  
13 the prohibition shall take effect on October 1, 2009.

14 (d) (1) Effective July 1, 2009, notwithstanding any other law  
15 or regulation, a regional center shall not purchase medical or dental  
16 services for a consumer three years of age or older unless the  
17 regional center is provided with documentation of a Medi-Cal,  
18 private insurance, or a health care service plan denial and the  
19 regional center determines that an appeal by the consumer or family  
20 of the denial does not have merit. If, on July 1, 2009, a regional  
21 center is purchasing the service as part of a consumer's IPP, this  
22 provision shall take effect on August 1, 2009. At the time of  
23 development, scheduled review, or modification of a consumer's  
24 individual program plan or individualized family service plan, the  
25 regional center shall provide, in a non-technical, understandable  
26 form and in the native language of the consumer or his or her  
27 parents, legal guardian, conservator, or authorized representative,  
28 or both, a written statement describing the documentation required  
29 pursuant to this paragraph. Regional centers shall pay for medical  
30 or dental services during the following periods:

31 (A) While coverage is being pursued, but before a denial is  
32 made.

33 (B) Pending a final administrative decision on the administrative  
34 appeal if the family has provided to the regional center a  
35 verification that an administrative appeal is being pursued.

36 (C) Until the commencement of services by Medi-Cal, private  
37 insurance, or a health care service plan.

38 (2) When necessary, the consumer or family may receive  
39 assistance from the regional center, the Clients' Rights Advocate

1 funded by the department, or the state council in pursuing these  
2 appeals:

3 (e) ~~This section shall not impose any additional liability on the~~  
4 ~~parents of children with developmental disabilities, or to restrict~~  
5 ~~eligibility for, or deny services to, any individual who qualifies~~  
6 ~~for regional center services but is unable to pay.~~

7 (f) ~~In order to best utilize generic resources, federally funded~~  
8 ~~programs, and private insurance programs for individuals with~~  
9 ~~developmental disabilities, the department and regional centers~~  
10 ~~shall engage in the following activities:~~

11 (1) ~~Within existing resources, the department shall provide~~  
12 ~~training to regional centers, no less than once every two years, in~~  
13 ~~the availability and requirements of generic, federally funded and~~  
14 ~~private programs available to persons with developmental~~  
15 ~~disabilities, including, but not limited to, eligibility requirements,~~  
16 ~~the application process and covered services, and the appeal~~  
17 ~~process.~~

18 (2) ~~Regional centers shall disseminate information and training~~  
19 ~~to all service coordinators regarding the availability and~~  
20 ~~requirements of generic, federally funded, and private insurance~~  
21 ~~programs on the local level.~~

22 SEC. 7.

23 SEC. 4. Section 4686.2 of the Welfare and Institutions Code  
24 is amended to read:

25 4686.2. (a) Effective July 1, 2009, notwithstanding any other  
26 law or regulation to the contrary, any vendor who provides applied  
27 behavioral analysis (ABA) services, or intensive behavioral  
28 intervention services or both, as defined in subdivision (d), shall:

29 (1) Conduct a behavioral assessment of each consumer to whom  
30 the vendor provides these services.

31 (2) Design an intervention plan that shall include the service  
32 type, number of ~~hours~~ *hours*, and parent participation needed to  
33 achieve the consumer's goals and objectives, as set forth in the  
34 consumer's individual program plan (IPP) or individualized family  
35 service plan (IFSP). The intervention plan shall also set forth the  
36 frequency at which the consumer's progress shall be evaluated  
37 and reported.

38 (3) Provide a copy of the intervention plan to the regional center  
39 for review and consideration by the planning team members.

1 (b) Effective July 1, 2009, notwithstanding any other law or  
2 regulation to the contrary, regional centers shall:

3 (1) Only purchase ABA services or intensive behavioral  
4 intervention services that reflect evidence-based practices, promote  
5 positive social behaviors, and ameliorate behaviors that interfere  
6 with learning and social interactions.

7 (2) (A) Only purchase ABA or intensive behavioral intervention  
8 services when the parent or parents of minor consumers receiving  
9 services participate in the intervention plan for the consumers,  
10 given the critical nature of parent participation to the success of  
11 the intervention plan.

12 (B) In determining the extent of parent participation required  
13 for the provision of ABA or intensive behavioral intervention  
14 services, the IPP or IFSP planning team shall consider any relevant  
15 hardships suffered by a parent or parents that may constitute a  
16 barrier to the consumer accessing those services, including, but  
17 not limited to, availability of group instruction courses, conflicts  
18 with employment, vocational training, or educational demands,  
19 financial hardship, or lack of transportation or child or other family  
20 member care, and language barriers. Any hardships shall be  
21 documented in the IPP or IFSP and reviewed annually to determine  
22 if there has been a change in circumstances. If the regional center  
23 determines that the extent of parent participation should be adjusted  
24 due to a change in circumstances, the regional center shall provide  
25 adequate notice pursuant to subdivision (a) of Section 4710.

26 ~~(C) At the time of development, scheduled review, or~~  
27 ~~modification of a consumer's IPP or IFSP, the regional center shall~~  
28 ~~provide, in a non-technical, understandable form and in the native~~  
29 ~~language of the consumer or his or her parents, legal guardian,~~  
30 ~~conservator, or authorized representative, or both, a written~~  
31 ~~statement describing the process for determining the extent of~~  
32 ~~parent participation pursuant to this paragraph and examples of~~  
33 ~~documentation that may be submitted to demonstrate hardships.~~

34 (3) Not purchase either ABA or intensive behavioral intervention  
35 services for purposes of providing respite, day care, or school  
36 services.

37 (4) Discontinue purchasing ABA or intensive behavioral  
38 intervention services for a consumer when the consumer's  
39 treatment goals and objectives, as described under subdivision (a),  
40 are achieved. ABA or intensive behavioral intervention services

1 shall not be discontinued until the goals and objectives are reviewed  
2 and updated as required in paragraph (5) and shall be discontinued  
3 only if those updated treatment goals and objectives do not require  
4 ABA or intensive behavioral intervention services.

5 (5) For each consumer, evaluate the vendor's intervention plan  
6 and number of service hours for ABA or intensive behavioral  
7 intervention no less than every six months, consistent with  
8 evidence-based practices. If necessary, the intervention plan's  
9 treatment goals and objectives shall be updated and revised.

10 (6) Not reimburse a parent for participating in a behavioral  
11 services treatment program.

12 (c) For consumers receiving ABA or behavioral intervention  
13 services on July 1, 2009, as part of their IPP or IFSP, subdivision  
14 (b) shall apply on August 1, 2009.

15 (d) For purposes of this section the following definitions shall  
16 apply:

17 (1) "Applied behavioral analysis" means the design,  
18 implementation, and evaluation of systematic instructional and  
19 environmental modifications to promote positive social behaviors  
20 and reduce or ameliorate behaviors which interfere with learning  
21 and social interaction.

22 (2) "Intensive behavioral intervention" means any form of  
23 applied behavioral analysis that is comprehensive, designed to  
24 address all domains of functioning, and provided in multiple  
25 settings for no more than 40 hours per week, across all settings,  
26 depending on the individual's needs and progress. Interventions  
27 can be delivered in a one-to-one ratio or small group format, as  
28 appropriate.

29 (3) "Evidence-based practice" means a decisionmaking process  
30 that integrates the best available scientifically rigorous research,  
31 clinical expertise, and individual's characteristics. Evidence-based  
32 practice is an approach to treatment rather than a specific treatment.  
33 Evidence-based practice promotes the collection, interpretation,  
34 integration, and continuous evaluation of valid, important, and  
35 applicable individual- or family-reported, clinically-observed, and  
36 research-supported evidence. The best available evidence, matched  
37 to consumer circumstances and preferences, is applied to ensure  
38 the quality of clinical judgments and facilitates the most  
39 cost-effective care.



1 (4) "Parent participation" shall include, but shall not be limited  
2 to, the following meanings:

3 (A) Completion of group instruction on the basics of behavior  
4 intervention.

5 (B) Implementation of intervention strategies, according to the  
6 intervention plan.

7 (C) If needed, collection of data on behavioral strategies and  
8 submission of that data to the provider for incorporation into  
9 progress reports.

10 (D) Participation in any needed clinical meetings.

11 (E) Purchase of suggested behavior modification materials or  
12 community involvement if a reward system is used.

13 ~~SEC. 8. Section 4686.5 of the Welfare and Institutions Code~~  
14 ~~is amended to read:~~

15 ~~4686.5. (a) Effective July 1, 2009, notwithstanding any other~~  
16 ~~provision of law or regulation to the contrary, all of the following~~  
17 ~~shall apply:~~

18 ~~(1) A regional center may only purchase respite services when~~  
19 ~~the care and supervision needs of a consumer exceed that of an~~  
20 ~~individual of the same age without developmental disabilities.~~

21 ~~(2) A regional center shall not purchase more than 21 days of~~  
22 ~~out-of-home respite services in a fiscal year nor more than 90 hours~~  
23 ~~of in-home respite services in a quarter, for a consumer.~~

24 ~~(3) (A) A regional center may grant an exemption to the~~  
25 ~~requirements set forth in paragraphs (1) and (2) if it is demonstrated~~  
26 ~~that the intensity of the consumer's care and supervision needs are~~  
27 ~~such that additional respite is necessary to maintain the consumer~~  
28 ~~in the family home, or there is an extraordinary event that impacts~~  
29 ~~the family member's ability to meet the care and supervision needs~~  
30 ~~of the consumer.~~

31 ~~(B) At the time of development, scheduled review, or~~  
32 ~~modification of a consumer's individual program plan or~~  
33 ~~individualized family service plan, the regional center shall provide,~~  
34 ~~in a non-technical, understandable form and in the native language~~  
35 ~~of the consumer or his or her parents, legal guardian, conservator,~~  
36 ~~or authorized representative, or both, a written statement describing~~  
37 ~~the exemption in subparagraph (A) and examples of documentation~~  
38 ~~that may be submitted to demonstrate qualification for the~~  
39 ~~exemption.~~

~~(C) For purposes of this section, “family member” means an individual who:~~

~~(i) Has a consumer residing with him or her.~~

~~(ii) Is responsible for the 24-hour care and supervision of the consumer.~~

~~(iii) Is not a licensed or certified residential care facility or foster family home receiving funds from any public agency or regional center for the care and supervision provided. Notwithstanding this provision, a relative who receives foster care funds shall not be precluded from receiving respite.~~

~~(4) A regional center shall not purchase day care services to replace or supplant respite services. For purposes of this section, “day care” is defined as regularly provided care, protection, and supervision of a consumer living in the home of his or her parents, for periods of less than 24 hours per day, while the parents are engaged in employment outside of the home or educational activities leading to employment, or both.~~

~~(5) A regional center shall only consider in-home supportive services a generic resource when the approved in-home supportive services meets the respite need as identified in the consumer’s individual program plan (IPP) or individualized family service plan (IFSP).~~

~~(b) For consumers receiving respite services on July 1, 2009, as part of their IPP or IFSP, subdivision (a) shall apply on August 1, 2009.~~

~~(c) This section shall remain in effect until implementation of the individual choice budget pursuant to Section 4648.6 and certification by the Director of the Department of Developmental Services that the individual choice budget has been implemented and will result in state budget savings sufficient to offset the costs associated with the repeal of this section. This section shall be repealed on the date of certification.~~